

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of)
ARM 12.6.2205 regarding) NOTICE OF AMENDMENT
noncontrolled species)

TO: All Concerned Persons

1. On December 24, 2009, the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-359 pertaining to the public hearing on the proposed amendment of the above-stated rule at page 2419 of the 2009 Montana Administrative Register, Issue No. 24.

2. The commission has amended ARM 12.6.2205 as proposed, but with the following changes from the original proposal, stricken matter interlined, new matter underlined:

12.6.2205 EXOTIC WILDLIFE: LIST OF NONCONTROLLED SPECIES

(1) and (2) remain as proposed.

~~(a)~~ (c) Hyperoliidae family; and

~~(b)~~ (d) Leptodactylidae family;

~~(e)~~ (b) Eritrea clawed frog - *Xenopus clivii*; and

~~(d)~~ (a) Cameroon volcano frog - *Xenopus amietii*;

(3) and (4) remain as proposed.

3. The following comments were received and appear with the commission's responses. The commission received comments from 28 individuals.

Comment 1: Five people supported the rule as proposed.

Response 1: The commission appreciates the interest in this rulemaking process.

Comment 2: Two people opposed listing the *Xenopus* frogs as noncontrolled. One person stated the *Xenopus laevis* (African clawed frog) remains prohibited when the differences between the species in the genus of *Xenopus* are largely of size, color, and shape not behavior in the wild.

Response 2: The committee evaluated the ability of the two *Xenopus* species in question to survive in Montana and any potential impacts they might have on Montana's wildlife species. While in the same genus as the currently prohibited *Xenopus laevis* (African clawed frog), their ability to survive in Montana's climate is less than that of the African clawed frog. The African clawed frog has the ability to estivate during colder weather and has been found in climates similar to Montana's as feral populations. The African clawed frog also grows to a much greater size, has

increased reproductive capacity, and has potential for significant impacts due to its voracious feeding habits.

Comment 3: The department needs to thoroughly justify why some frogs in the genus *Xenopus* are noncontrolled while others are prohibited.

Response 3: Please see Response 2.

Comment 4: Eleven people, including a representative of the Humane Society of the United States, opposed listing the Eritrea clawed frog and Cameroon volcano frog as noncontrolled. Opposition was based on risks to public health due to the spread of salmonella associated with pet frogs and the welfare of native wildlife due to competition, predation, and the spread of disease including chytrid fungus. One person stated the Eritrea clawed frog and Cameroon volcano frog should be placed on the prohibited list.

Response 4: See Response 2 regarding risk to native wildlife through competition and predation. The committee did not find that "this species has shown the ability to survive in a broad range of aquatic habitats." In fact, environmental conditions, namely Montana's fall, winter, and spring environment, will prevent its potential survival. Regarding disease concerns, the chytrid fungus has been found in native Montana amphibian populations. Export of *Xenopus clivii* or *Xenopus amieti* into Montana will be limited to breeding facilities that can document their chytrid free status at the facility. None of the *Xenopus clivii* or *Xenopus amieti* imported into Montana will come from wild populations. Any of the reptiles or amphibians currently kept as pets in Montana households have potential human health issues related to salmonella exposure. The Chief Medical Officer from the Department of Public Health and Human Services did not feel that these species presented any risk of salmonella than species of reptiles or amphibians that are currently noncontrolled and allowed for private pet ownership.

Comment 5: Nine people oppose allowing the possession and sale of the three exotic species as a commercial commodity. These people feel that proper care and feeding of these animals is likely to be temporary resulting in dumping unwanted animals that could pose dangers to native wildlife.

Response 5: Pet ownership of any kind requires a responsible commitment to proper care of the animal. Any release of "unwanted" animals into the environment is prohibited by law and individuals found doing so will be cited.

Comment 6: One person asked for a public campaign to raise awareness of the dangers that these and other exotic species pose.

Response 6: The commission and the Department of Fish, Wildlife, and Parks (department) are aware that public education is essential in preventing the spread and introduction of exotic species. The department is involved in several awareness campaigns including the national Habitattitude campaign which

emphasizes that unwanted pets and fish do not get released into the environment. The department is also launching the Invasive Species Public Information Campaign beginning spring 2010.

Comment 7: One person is opposed to all noncontrolled exotic species because control of exotic species is costly.

Response 7: The commission recognizes that the control and eradication of invasive species can be very costly. The purpose of the Exotic Wildlife Program is to prevent harmful impacts by exotics. All exotic species being classified are reviewed for their potential impacts and associated costs if they were to become released and established in the wild.

Comment 8: One person stated introduction of exotic species for the pet trade could lead to the release of animals and potential competition with native species. The commenter asserts there are several examples of this in the Billings area. Another person cited problems in Flathead Lake and the Missouri Reservoirs.

Response 8: The commission is uncertain as to the specific examples being referred to in the two comments. The commission recognizes the potential impacts that can be caused by exotic species if they were to be released into the wild. All exotic wildlife species being classified are reviewed for potential impacts if they were to become released and established in the wild.

Comment 9: Three people submitted general opposition to the rule proposal.

Response 9: The commission appreciates the interest in this rulemaking process and incorporates Response 2 through Response 8 to address these comments.

/s/ Bob Ream
Bob Ream, Chairman
Fish, Wildlife and Parks Commission

/s/ William A. Schenk
William A. Schenk, Rule Reviewer
Department of Fish, Wildlife and Parks

Certified to the Secretary of State March 15, 2010.